

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/050,000	NAKARI-SETALA ET AL.	
	Examiner Robert B. Mondesi	Art Unit 1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed August 9, 2007.
2.  The allowed claim(s) is/are 1,5-9 and 32-42.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20070912</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                    |
|  | 9. <input type="checkbox"/> Other _____.   |

*9-18-2 out*  
*Robert B. Mondesi*

Robert B. Mondesi  
Examiner  
Art Unit: 1652

### **DETAILED ACTION**

**Claims 1, 5-9 and 32-42** are allowable. The restriction requirement among inventions of Groups I and II-III, II and III as set forth in the Office action mailed on June 17, 2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.**

**Claims 10-13**, which required all the limitations of an allowable claim, previously withdrawn from consideration as a result of the restriction requirement have been canceled, see Examiner's amendment below. In view of the withdrawal of the restriction requirement as set forth above, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Mr. Paul Pylar on September 17, 2007.

The application has been amended as follows:

**Claim 1 (Presently Amended)** A method for decreasing the foam formation during cultivation of *Trichoderma* production host, characterized in that the process comprises the steps of

- genetically modifying the *Trichoderma* production host in such way that the *Trichoderma* production host does produces at least 50 % less Hydrophobin I (HFBI) or Hydrophobin II (HFBII ) or both during cultivation, compared to the non-modified parent host strain thereby producing a modified *Trichoderma* production host; and

- cultivating the modified *Trichoderma* production host under suitable culture conditions

**Claim 5 (Presently amended)** The method of claim 1 characterized in that the genetic modification comprises genetic modification of a DNA sequence encoding a protein, polypeptide or peptide regulating the production of at least one of the proteins, polypeptides or peptides associated with foam formation the HFBI or HFBII polypeptide.

**Claim 6 (Presently amended)** The method of claim 1, characterized in that the genetic modification comprises genetic modification of the regulatory region of a gene encoding at least one of the proteins, polypeptides or peptides associated with foam formation the HFBI or HFBII polypeptide.

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**Claim 7** (Presently amended) The method of claim 1, characterized in that the genetic modification comprises genetic modification of a DNA sequence encoding ~~at least one of the proteins, polypeptides or peptides associated with foam formation the HFBI or HFBII polypeptide.~~

**Claim 8** (Presently amended) The method of claim 7, characterized in that genetic modification comprises inactivation of a DNA sequence encoding ~~at least one of the proteins, polypeptides or peptides associated with foam formation the HFBI or HFBII polypeptide.~~

**Claim 9** (Presently amended) The method of claim 8, characterized in that the genetic modification comprises deletion of a DNA sequence encoding ~~at least one of the proteins, polypeptides or peptides associated with foam formation the HFBI or HFBII polypeptide.~~

**Claims 10-13** are canceled.

**Claim 39** (Presently amended) A method for decreasing the foam formation during cultivation of a *Trichoderma reesei* production host, characterized in that the process comprises the steps of

- genetically modifying the *Trichoderma reesei* production host in such a way that the *Trichoderma reesei* production host produces at least 50 % less Hydrophobin I (HFBI) or Hydrophobin II (HFBII) or both during cultivation, compared to the non-modified parent host strain thereby producing a modified *Trichoderma reesei* production host; and

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- cultivating the modified *Trichoderma reesei* production host under suitable culture conditions in the presence of agitation and/or aeration in an airlift fermentor.

### ***Conclusion***

**Claims 1, 5-9 and 32-42 are allowed.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Mondesi whose telephone number is 571-272-0956. The examiner can normally be reached on 9am-5pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert B Mondesi  
Examiner  
Art Unit 1652

*Robert B. Mondesi*  
9-18-2007

RBM